NOTES OF CASES.

BANKRUPTCY ACT—OMISSION OF CREDITOR FROM SCHEDULES.—It was intended in the new Bankruptcy Act to remedy a defect in the previous Bankruptcy Act, by which a debt was discharged even though the name of the creditor was omitted from the schedules, provided such omission was not wilful or fraudulent, even though the creditor had no notice or knowledge of the proceeding. *Broadway Trust Co.* v. *Manheim*, Supreme Court of New York, Trial Term, Kings county, May, 1905, 14 Am. B. R., p. 122.

BANKRUPTCY—SET-OFF—CLAIM NOT DUE AT ADJUDICATION—ACTION BY TRUSTEE.—In an action by trustee to recover a debt due the bankrupt estate, the defendant may plead as a set-off, the amount of a note against the bankrupt, even though it had not matured at the date of adjudication, but the defendant is not entitled to any affirmative judgment thereon. *Frank, as trustee etc.* v. *Mercantile National Bank*, Court of Appeals of the state of New York, June 13, 1905, 14 Am. B. R., p. 125.

BANKRUPTCY—JURISDICTION—ORDER FOR DELIVERY OF PROPERTY TO RECEIVER.—The bankruptcy court has jurisdiction to order property of the bankrupt in the possession of a bailee or agent to be delivered to the receiver pending the appointment of a trustee. *Matter of the Muncie Pulp Company*, U. S. Circuit Court of Appeals, Second Circuit, June, 1905, 14 Am. B. R., p. 70.

C. &. O. v. STOCK.—The opinion of our Court of Appeals in the *Chesapeake & Ohio Ry. Co.* v. *Stock* (decided June 15, 11 Va. Law Reg. 263), wherein the "scintilla doctrine" received its death blow, purports to be the unanimous deliverance of the court, but we are informed by the president of the court that Judge Buchanan concurred in the result only and that he did not approve the opinion.

A RESULT NOT REASONABLY EXPECTED.—A manufacturer of champagne cider, which is ordinarily not dangerous and which is a common article of commerce, and is manufactured by him by proper machinery, and not excessively charged, is held in *O'Neil* v. *James* (Mich.), 68 L. R. A. 342, not to be liable for injuries to an employee of his customer through the explosion of a bottle, unless he knows that for some reason such bottle is peculiarly liable to such accident.

INSURANCE—FAILURE TO KEEP BOOK—WAIVER.—A forfeiture of insurance for failure to keep and produce books is held, in *American Cent. Ins. Co.* v. *Nunn* (Tex.), 68 L. R. A. 83, not to be waived by an examination of the insured under oath, with knowledge of loss, which puts him to some

expense, where the policy expressly provides that the insured shall submit to examination under oath, and that the company shall not be held to have waived any forfeiture under the policy by an exammination so provided for.

COVENANT RUNNING WITH THE LAND.—Provisions in a deed, that the house shall set back a certain distance from the street, and not extend beyond a specified depth, so as to correspond to grantor's adjoining house, and that the elevation, material, and plan shall also correspond with such house, so as to form one building, are held, in *Welch* v. *Austin* (Mass.), 68 L. R. A. 189, not to be personal to the parties, but to apply in favor of their successors in title so long as the house first built on the granted premises stands.

DAMAGES—PROXIMATE CAUSE.—Although a tuberculous condition of the knee of a person whose leg was injured by another's negligence develops because tuberculosis was organic in the injured person, or because of mistakes in treatment, it is held, in *Chicago City R. Co.* v. *Saxby* (Ill.), 68 L. R. A. 164, that it cannot be said that it was not the consequence which might not naturally follow as a result of the injury, and that therefore the negligent person may be held liable therefor.

IMPUTABLE NEGLIGENCE.—The negligence of the driver of a fire engine in colliding with a street car is held, in *McKernan* v. *Detroit Citizens Street R. Co.* (Mich.), 68 L. R. A. 347, not to be imputable to a fireman engaged in his duties upon the engine, so as to defeat a recovery for injuries caused by the negligence of the car company.

BANKRUPT—ICE HARVESTING CORPORATION —"TRADING" OR "MERCANTILE" PURSUITS.—Where the proof shows that a company incorporated "to buy, gather, store and preserve ice, to prepare it for sale, transport it . . . and to sell the same," etc., never bought any ice except two or three times in twelve years, and then only for the purpose of supplying customers because of the failure of its own supply, gathered either from its own or leased property, it cannot be held to have been engaged principally in "trading" or "mercantile pursuits," within the meaning of the Bankrupt Act, 1898, and therefore not subject to adjudication as a bankrupt. *Matter of New York & New Jersey Ice Lines*, an alleged bankrupt, U. S. District Court, Southern District of New York, May, 1905, 14 Am. B. R., p. 61.

EXEMPTIONS—LIFE INSURANCE—STATE LAW—SECTION 70A CONSTRUED.—Under a statute exempting from all liability for any debt the proceeds or avails of "all life insurance," the proceeds of a semi-tontine or paid-up policy are exempt.